

S/N Unknown

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Fodstad et al.	Examiner:	Unknown
Reissue of Patent No.:	6,265,229	Group Art Unit:	Unknwon
Application No.:	Unknown		
Filed:	Herewith	Docket No.:	8966.31USRE
Title:	Method For Detection of Specific Target Cells in Specialized or Mixed Cell Population and Solutions Containing Mixed Cell Populations		

CERTIFICATE UNDER 37 CFR 1.10:

"Express Mail" mailing label number: EV 322885267 US

Date of Deposit: July 22, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Reissue, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

By: _____

Name: John Junkers

REISSUE DECLARATION

Mail Stop Reissue
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, Oystein Fodstad, Hanne Hoifodt, and Philip Rye hereby declare as follows:

1. We are citizens of Norway residing at: Frits Kiers v. 28, N-0383 Oslo; Havalstadasen 25, N-1364 Hvalstad; and Melumveien 52, N-0751 Oslo, respectively.
2. We believe that we are the original, first and joint inventors of the subject matter of the invention titled "**Method and Device For Detection of Specific Target Cells in Specialized or Mixed Cell Populations and Solutions Containing Mixed Cell Populations**" which invention is described and claimed in U.S. Letters Patent No. 6,265,229 which issued July

24, 2001 and described in the specification filed in the reissue application and claimed as amended by the accompanying amendment, for which invention we solicit a reissue patent.

3. We do not believe that said invention was ever known or ever used in the United States of America before our invention thereof.

4. We hereby state that we have reviewed and understand the contents of the above-identified specification including the claims as amended.

5. We hereby state that the subject matter of the claims of this reissue patent application is disclosed in U.S. Patent Application Serial No. 08/704,619, filed November 04, 1996, which is a National Phase filing of PCT/NO95/00052, filed March 10, 1995.

6. We acknowledge the duty to disclose information which is material to the examination of this reissue application in accordance with Title 37, Code of Federal Regulations, § 1.56 as well as §§ 1.97 and 1.98.

7. We believe the above-identified patent is partially inoperative by reason of claiming less than we had a right to claim in the patent. Such inoperativeness includes particularly the failure to prosecute and obtain claims commensurate with the scope of amended claims 1, 3, 43, 45, 50, 74, and 86, and new claims 89-91.

8. The amended and new claims correspond to the issued claims as follows:

- a.) Amended claim 1 corresponds to issued claim 1 with the exception that,
 - i.) “without detection of normal and malignant hematopoietic cells,”
“which filter provides a matrix for cell growth;”, and “growing cells of the

separated particle-target cell complexes on the filter; and g.” have been deleted

ii.) in step e., - - ; - - has been added.

b.) Amended claim 3 corresponds to issued claim 3 as follows:

i.) “-10” has been deleted.

c.) Amended claim 43 corresponds to issued claim 43 with the exception that,

i.) “without detection of normal and malignant hematopoietic cells,”
“which filter provides a matrix for cell growth;”, and “growing cells of the
separated particle-target cell complexes on the filter; and f.” have been
deleted

ii.) in step d., - - ; - - has been added.

d.) Amended claim 45 corresponds to issued claim 45 as follows:

i.) “-10” has been deleted.

e.) Amended claim 50 corresponds to issued claim 50 as follows:

i.) “-10” has been deleted.

f.) Amended claim 74 corresponds to issued claim 74 as follows:

i.) “23” has been deleted

ii.) -- 43 -- has been added.

g.) Amended claim 86 corresponds to issued claim 86 as follows:

i.) “without detection of normal and malignant hematopoietic cells,”
has been deleted.

- h.) New claim 89 mirrors issued claim 23, rewritten in independent form with all of the limitations of the claims upon which it depended, with the exception that:
 - i.) “without detection of normal and malignant hematopoietic cells,” “which filter provides a matrix for cell growth;”, and “growing cells of the separated particle-target cell complexes on the filter; and g.” have been deleted.
- i.) New claim 90 mirrors issued claim 22, with the exception that it is dependent on new claim 89.
- j.) New claim 91 mirrors issued claim 24, with the exception that it is dependent on new claim 89.

9. We hereby state that the error occurred without deceptive intent and that we now provide amended claims 1, 3, 43, 45, 50, 74, and 86, and new claims 89-91, in addition to the previously issued claims of U.S. Patent No. 6,265,229.

10. An Information Disclosure Statement is also provided with this reissue application. European Patent No. 0660930 resulted from an EPO National Stage filing based on PCT/N092/00151. The EPO filing was examined, allowed, and then subsequently opposed. The information disclosure statement provided herewith provides the publications cited during the opposition. While U. S. Patent Application Serial No. 08/704,619, (which lead to U. S. patent No. 6,265,229), was copending with the National Stage filing which lead to European Patent No. 0660930, during the EPO opposition, the references were not cited in the examination of U. S.

Patent Application No. 08/704,619. Only after issuance of U. S. Patent 6,265,229, did U. S. counsel learn of the publications cited during the opposition. The omission was uncovered when Norwegian counsel inquired into the relevance of the publications with U. S. counsel. Norwegian counsel proved to have little experience with U. S. patent laws.

11. The Information Disclosure Statement provided with this reissue application also includes a reference (Kessler et al.) cited by the Canadian Patent Office of which we became aware on May 22, 2003 in a letter from the Canadian Associate.

12. We hereby declare that all statements made herein of our own knowledge and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date

Oystein Fodstad

Date

Hanne Hoifodt

Date

Philip Rye

S/N Unknown

PATENT

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By: _____

Name: John Junkers

WRITTEN CONSENT OF THE ASSIGNEE UNDER 37 C.F.R. § 1.172
AND CERTIFICATE UNDER 37 C.F.R. § 3.73(b)

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

ABBOTT LABORATORIES, a corporation organized and existing under the laws of the State of Illinois, having a place of business at 100 Abbott Park Road, Abbott Park, Illinois 60064-3500, hereby consents to the filing of a reissue application for issued patent 6,265,229, filed July 22, 2003.

ABBOTT LABORATORIES certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of a chain of title from the inventors of the patent application identified above to the current assignee as shown below:

1. From: Oystein Fodstad and Gunnar Kvalheim To: The Norwegian Radium Hospital Research Foundation.

The document was recorded in the Patent and Trademark Office on March 12, 2003 at Reel 013475, Frame 0463.

2. From: The Norwegian Radium Hospital Research Foundation To: Abbott Laboratories.

The document was recorded in the Patent and Trademark Office on September 16, 2002 at Reel 013081, Frame 0954.

The undersigned Officer is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: _____

By: _____

Name: _____


Title: _____

THIS CONFIRMATORY ASSIGNMENT is made the 22 day of May 2002 2002 BETWEEN THE NORWEGIAN RADIUM HOSPITAL RESEARCH FOUNDATION a Norwegian entity of P.O. Box 56 Montebello, NO-0310 Oslo, Norway (hereinafter referred to as "the Assignor") of the one part, and ABBOTT LABORATORIES an Illinois corporation of 100 Abbott Park Road, Abbott Park, Illinois 60064-3500, the United States of America (hereinafter referred to as "the Assignee") of the other part.

WHEREAS

- (a) The Assignor is the registered proprietor of European Patent No. 0660930 and European Patent No. 0749580 (hereinafter referred to as "the Patents"); and
- (b) The Assignor assigned their rights in the Patents to the Assignee in an assignment dated 3rd January 2002;

NOW THIS CONFIRMATORY ASSIGNMENT WITNESSETH as follows:

- (c) It is hereby confirmed that the Assignor ASSIGNED unto the Assignee with Full title guarantee ALL THE BENEFIT of the said Patents, THE INVENTIONS, the subject-matters thereof, HIS RIGHT TITLE AND INTEREST in the same and ALL RIGHTS powers liberties and immunities arising or to arise therefrom, including the right to sue for past and future infringements, TO HOLD unto the Assignee absolutely; and
 - (d) The Assignor confirms to undertake at his own expense to do all acts and execute all documents necessary or desirable for securing and executing all his rights in or under said Patents and for assuring the title of the Assignee to the Patents.
- 

(e) In witness whereof the parties have executed this Confirmatory Assignment the day and year first above written.

Signed for or on behalf of

THE NORWEGIAN RADIUM HOSPITAL
RESEARCH FOUNDATION

Position

May 22, 2002

Tore Larsson
Managing Director

Signed for or on behalf of

ABBOTT LABORATORIES

Position

Asst. Secy, UP, Chief Pat. and Trademark
COUNSEL

Form PTO-1595

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

Tab settings

RECORDATION FORM COVER SHEET

PATENTS ONLY

U.S. DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

The Norwegian Radium Hospital Research Foundation

2. Name and address of receiving party(ies)

Name: Abbott LaboratoriesInternal Address: D377/AP6A-1Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment☐ Merger☐ Security Agreement☐ Change of Name☐ Other _____Street Address: 100 Abbott Park RoadCity: Abbott Park State: IL Zip: 60064-6008Execution Date: May 22, 2002Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)

08/403,844

09/691,821

B. Patent No.(s)

US 6,184,043

US 6,265,229

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Steven F. WeinstockInternal Address: D377/AP6A-1Street Address: 100 Abbott Park RoadCity: Abbott Park State: IL Zip: 60064-60086. Total number of applications and patents involved: 47. Total fee (37 CFR 3.41).....\$ 160.00☐ Enclosed☒ Authorized to be charged to deposit account

8. Deposit account number:

01-0025

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*David J. Schodin Reg. No. 41,294

Name of Person Signing

David J. Schodin
Signature9/13/02

Date

Total number of pages including cover sheet, attachments, and documents: 5

Mail documents to be recorded with required cover sheet information to:

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Washington, D.C. 20231

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(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

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3. Nature of conveyance:

☒ Assignment☐ Merger☐ Security Agreement☐ Change of Name☐ Other _____Street Address: 100 Abbott Park RoadCity: Abbott Park State: IL Zip: 60064-6008Execution Date: May 22, 2002Additional name(s) & address(es) attached? ☐ Yes ☒ No

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*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*David J. Schodin Reg. No. 41,294

Name of Person Signing

David J. Schodin

Signature

9/13/02

Date

Total number of pages including cover sheet, attachments, and documents 3

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